



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2013

Ms. Mia Settle
General Counsel
Harris County Community Supervision and Corrections Department
49 San Jacinto
Houston, Texas 77002

OR2013-02815

Dear Ms. Settle:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 479433.

The Harris County Community Supervision and Corrections Department (the "department") received a request for the names, addresses, and telephone numbers of the following persons: (1) "administrative and technical personnel connected to the collection, chain of custody, and analysis of" a specimen provided by the requestor's client; (2) "the person who currently has possession of" the specimen; (3) judges and other members of a specified committee; and (4) eight named individuals and One Source Labs. You state some responsive information will be provided to the requestor. You claim a portion of the requested information is not public information subject to the Act. You claim some of the submitted information is excepted from disclosure under section 552.1175 of the Government Code. We have considered your claims and reviewed the submitted information.

First, we address your assertion that a portion of the requested information constitutes judicial records not subject to the Act. The Act generally requires the disclosure of information maintained by a "governmental body." Gov't Code § 552.002(a)(1). A governmental body under the Act "does not include the judiciary." *Id.* § 552.003(1)(B). However, in Open Records Decision No. 646 (1996), this office determined a community supervision and corrections department is a governmental body for purposes of the Act, and its administrative records such as personnel files and other records reflecting the day-to-day

management of the department are subject to the Act. ORD 646 at 5; *see also Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ) (in determining whether governmental entity falls within judiciary exception, this office looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). In contrast, specific records held by a community supervision and corrections department that concern individuals who are on probation and subject to the direct supervision of a court are not subject to the Act, because such records are held on behalf of the judiciary. ORD 646 at 5. Upon review, we agree the requested contact information from the probation file of a probationer constitutes records held by the department that concern an individual who is on probation and subject to the direct supervision of a court. Such records are therefore held on behalf of the judiciary. Thus, this information consists of records of the judiciary that are not subject to the Act, and need not be released in response to the instant request.

Next, we note you have marked the responsive information you seek to withhold. Thus, the remaining submitted information is not responsive. This ruling does not address the public availability of non-responsive information, and the department need not release such information in response to the request.

Although you raise section 552.1175 of the Government Code, we note section 552.117 of the Government Code is the proper exception to raise for information the department holds in its capacity as an employer. Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. The department may withhold information under section 552.117(a)(1) only on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made.

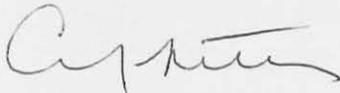
You state the former employees whose personal information you marked timely requested confidentiality under section 552.024. You have provided copies of the employees' election forms. Accordingly, the department must withhold the marked information under section 552.117(a)(1) of the Government Code.

In summary, contact information from the probation file of a probationer comprises records of the judiciary that are not subject to the Act and need not be released in response to the instant request. The department must withhold the marked information under section 552.117(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 479433

Enc. Submitted documents

c: Requestor
(w/o enclosures)